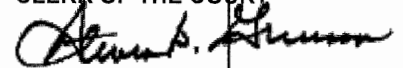


# **EXHIBIT “A”**

# **EXHIBIT “A”**

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Steven D. Grierson  
CLERK OF THE COURT



CASE NO: A-22-850753-C  
Department 28

**COMP**

DAVID A. TANNER, Esq.  
Nevada Bar No. 8282  
REZA R. AYAZI, Esq.  
Nevada Bar No. 15495  
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*Attorneys for Plaintiff*

**DISTRICT COURT**  
**CLARK COUNTY, NEVADA**

QUINTNEY MARTIN, an individual,  
  
Plaintiff,

vs.

SMITH'S FOOD & DRUG CENTERS, INC.  
d/b/a SMITH'S FOOD AND DRUG, a foreign  
corporation; DOES I through X; and ROE  
ENTITIES I through X,  
  
Defendants.

CASE NO.  
DEPT. NO.

**COMPLAINT**

**COMPLAINT**

COMES NOW, Plaintiff, QUINTNEY MARTIN, by and through her attorneys, David A. Tanner, Esq. and Reza R. Ayazi, Esq. of the Tanner Law Firm, and complains and alleges against Defendants, and each of them, as follows:

...  
...  
...  
...

**THE PARTIES**

1  
2       1.       This Court has jurisdiction over this matter under NRS 14.065 and NRS 4.370(1),  
3 as the facts alleged occurred in Clark County, Nevada and involve an amount in controversy in  
4 excess of \$15,000.00. Venue is proper pursuant to NRS 13.040, as Defendant, or any one of them  
5 resided in Clark County, Nevada at the commencement of this action.

6       2.       At all times relevant hereto, Plaintiff, QUINTNEY MARTIN ("Martin" or  
7 "Plaintiff"), is and was a resident of Clark County, Nevada.

8       3.       At all times relevant hereto, Defendant, SMITH'S FOOD & DRUG CENTERS,  
9 INC. d/b/a SMITH'S FOOD AND DRUG, is and was a foreign corporation and was licensed to  
10 and was conducting business in Clark County, Nevada.

11       4.       Plaintiff believes that SMITH'S FOOD & DRUG CENTERS, INC. d/b/a  
12 SMITHS'S FOOD AND DRUG owned, operated, maintained, and managed Smith's Food and  
13 Drug ("Smith's"), a store located in Clark County, Nevada.

14       5.       Smith's is located at 5564 Camino Al Norte, North Las Vegas, NV 89031.

15       6.       The true names and capacities, whether individual, corporate, associate, or  
16 otherwise of Defendants Does I through X and Roe Corporations I through X are unknown to  
17 Plaintiff at this time, who therefore sues said Defendants by such fictitious names. Plaintiff is  
18 informed and believes and therefore alleges that each of the Defendants designated as Does and  
19 Roe Entities are responsible in some manner for the events and happenings referred to as alleged  
20 herein, whether by actually or have responsibility for creating the hazard, failing to warn of the  
21 hazard, owning, managing, maintaining, inspecting, cleaning, supervising, or controlling the  
22 premises, or in some other manner as set forth herein. Plaintiff will seek leave of the Court to  
23 amend this Complaint to insert the true names and capacities of Does I through X and Roe Entities  
24 I through X when the same have been ascertained and to join such Defendants in this action.

25       7.       DOES I through X are persons whose conduct gives rise to this Complaint;  
26 specifically, these DOE Defendants are individuals who participated in the conduct alleged  
27 herein, whether by the design, manufacture, marketing, distributing, installation, or otherwise  
28 created, sold, or distributed the product or failed to warn about its damages or limitations that

1 reasonably contributed to the cause of the subject failure and injuries of Plaintiff, but their  
2 identities are unknown as this time; Plaintiff reserves the right to amend this Complaint to  
3 specifically name these individuals when their identities are ascertained.

4 8. ROE CORPORATIONS I through X are business entities whose conduct gives  
5 rise to the allegations of the Complaint contained herein; specifically, these business entities  
6 participated in the conduct alleged herein, whether by the design, manufacture, marketing,  
7 distributing, installation, or otherwise created, sold, or distributed the product, or failed to warn  
8 about its damages or limitations that reasonably contributed to the cause of the subject failure and  
9 injuries of Plaintiff, but their identities are unknown as this time; Plaintiff reserves the right to  
10 amend this Complaint to specifically name these individuals when their identities are ascertained.

11 9. At all pertinent times herein, Defendants were agents, servants, partners,  
12 employees and/or employers or joint venturers of every other Defendant herein and, at all times  
13 mentioned herein, were acting within the course and scope of said agency, employment, or joint  
14 venture, with knowledge permission and consent of all other named Defendants.

#### 15 GENERAL ALLEGATIONS

16 10. On or about March 8, 2021 Plaintiff was at Smith's, located at 5564 Camino Al  
17 Norte, North Las Vegas, NV 89031.

18 11. Plaintiff was legally on the premises at Smith's at the time of this incident.

19 12. At all times relevant herein, the Defendants were the owners, managers,  
20 maintainers, inspectors, supervisors, or controllers of the premises where Plaintiff was located.

21 13. Plaintiff believes that at all times relevant herein, the Defendants and each of them  
22 were the employees or agents of the other Defendants and were acting in the course and scope of  
23 their employment or agency.

24 14. While walking through the entrance door and entering into Smith's, the doors  
25 suddenly closed onto our client, hitting Plaintiff and thus causing injuries to Plaintiff.

26 15. Plaintiff believes that Defendants have a policy that the entrance doors of Smith's  
27 must be routinely inspected, maintained, and cleaned so they are kept safe and in good repair or  
28 warnings used to ensure patrons, such as Plaintiff, are not harmed.

1           16. Plaintiff believes that the Defendants understand that a broken and/or damaged  
2 door is a hazardous condition and can lead to a patron being injured.

3           17. Defendants designed, tested, manufactured and assembled the subject doors.

4           18. The subject doors are available to patrons to use at Smith's.

5           19. Defendants' personnel did not use warnings to alert patrons, such as Plaintiff, of  
6 the hazardous condition.

7           20. Plaintiff believes that certain Doe and Roe entity defendants understand that a  
8 defective door is a hazardous condition and can lead to a patron being injured, and that the Doe  
9 and Roe entities were responsible for manufacturing, designing, and assembling the subject doors.

10          21. Plaintiff believes that Defendant Doe and Roe entities did not use warnings or  
11 proper labels to alert patrons, such as Plaintiff, of the broken doors.

12          22. On or about March 8, 2021, Defendants, and each of them, while in the course and  
13 scope of their employment and agency with other Defendants, negligently failed to maintain,  
14 manage, inspect, clean, supervise, control, and repair the premises; failed to properly  
15 manufacture, design, or inspect the subject doors; and further failed to warn Plaintiff of hazards  
16 which resulted in Plaintiff's injuries.

17                                   **FIRST CAUSE OF ACTION**  
18                                   **(Negligence)**

19          23. Plaintiff repeats and realleges the allegations contained in Paragraphs 1 through  
20 22 above as if fully set forth herein.

21          24. Defendants had a duty to maintain, manage, inspect, clean, supervise, control, and  
22 repair the premises and associated equipment to ensure that no hazards existed that could harm a  
23 patron. Defendants had a duty to warn of hazards such as broke doors.

24          25. Defendants breached these duties, which breached proximately cause harm to  
25 Plaintiff.

26          26. As a result of Defendants' conduct, Plaintiff has suffered damages, and Plaintiff is  
27 entitled to damages in excess of \$15,000.00.  
28



28. Plaintiff repeats and realleges the allegations contained in Paragraphs 1 through 27 above as if fully set forth herein.

30. The door struck the plaintiff and, plaintiff belies that the door was broken or not functioning correctly.

32. Plaintiff believes that the Defendant would be in a better position to explain the doors hitting him.

34. Defendants breached these duties, which breached proximately cause harm to Plaintiff.

36. As a result of Defendants' conduct, as set forth herein, Plaintiff has been required to retain the services of an attorney, and, as direct, natural, and foreseeable consequence thereof, has been damaged thereby, and is entitled to reasonable attorneys' fees and costs

37. Plaintiff repeats and realleges the allegations contained in Paragraphs 1 through 36 above as if fully set forth herein.

38. Defendants owed a duty of due care to Plaintiff, and others similarly situated, in the design, testing, manufacture, assembly, and sale of the subject doors.

39. Defendants breached their duty of due care by their negligent, careless, wanton, willful, and indifferent failure to act including, but not limited to:

40. The negligent and improper design, testing, manufacture, assembly, and inspection of the subject doors and its component parts.

41. The failure to provide adequate, accurate, and effective warnings and instructions to owners, operators, and users of the subject doors.

42. As a direct result of unreasonably dangerous defects in the subject doors and the breach of the duty owed by Defendants, Plaintiff suffered injuries.

43. Upon information and belief, at the time of the aforesaid accident, the subject doors and its component parts were in the same condition as when they left the control of Defendants who manufactured them and were being used without any substantial change or alteration in their condition.

44. As a direct and proximate result of the conduct of the Defendants described hereinabove, Plaintiff has sustained damages in excess of \$15,000.00.

45. As a result of Defendants' conduct, as set forth herein, Plaintiff has been required to retain the services of an attorney, and, as direct, natural, and foreseeable consequence thereof, has been damaged thereby, and is entitled to reasonable attorneys' fees and costs.

**FOURTH CAUSE OF ACTION**  
**(Strict Product Liability)**

46. Plaintiff repeats and realleges the allegations contained in Paragraphs 1 through 45 above as if fully set forth herein.

47. The subject doors and its component parts that were designed, tested, manufactured, inspected, constructed, maintained, marketed, sold, and distributed by Defendants were unreasonably dangerous and defective, in that they were designed, tested, manufactured, inspected, constructed, maintained, marketed, and distributed with characteristics that rendered

1 them unsafe for the use for which they were intended in light of their nature and intended function  
2 or for reasonably foreseeable uses.

3 48. The subject doors and its component parts failed to perform as expected and were  
4 more dangerous than reasonably expected by an ordinary consumer.

5 49. The defects existed in the subject doors and its component parts at the time they  
6 left the control of Defendants and continued in the defective condition until the subject incident.

7 50. That Defendants designed, tested, manufactured, inspected, constructed,  
8 maintained, the subject doors and further failed to warn of the defective condition of the subject  
9 doors and its component parts.

10 51. That Defendants are strictly liable for the unreasonably dangerous and defective  
11 condition of the subject doors.

12 52. That Defendants breached their express and implied warranties with respect to the  
13 subject doors and its component parts.

14 53. As a direct and proximate result of the defects in the subject doors and its  
15 component parts as set forth described herein, Plaintiff has sustained damages in excess of  
16 \$15,000.00.

17 54. As a result of defects in the subject doors and its component parts, as set forth  
18 herein, Plaintiff has been required to retain the services of an attorney, and, as direct, natural, and  
19 foreseeable consequence thereof, has been damaged thereby, and is entitled to reasonable  
20 attorneys' fees and costs.

21 **FIFTH CAUSE OF ACTION**  
22 **(Negligent Failure to Inspect and Warn)**

23 55. Plaintiff repeats and realleges the allegations contained in Paragraphs 1 through  
24 54 above as if fully set forth herein.

25 56. Defendants inspected the subject doors before March 8, 2020 and knew or should  
26 have known that it and its component parts were defective in design and/or manufacture and failed  
27 to warn the Plaintiff of the dangerous condition, to Plaintiff's detriment and damages as heretofore  
28 alleged.



1           57. That the failure to inspect and warn was a proximate cause of the injuries and  
2 damages heretofore alleged and was, further, a willful and conscious disregard of known safety  
3 procedures.

4           58. As a direct and proximate result of the conduct of the Defendants described  
5 hereinabove, Plaintiff has sustained damages in excess of \$15,000.00.

6           59. As a result of Defendants' conduct, as set forth herein, Plaintiff has been required  
7 to retain the services of an attorney, and, as a direct, natural, and foreseeable consequence thereof,  
8 has been damaged thereby, and is entitled to reasonable attorneys' fees and costs.

9  
10                                   **SIXTH CAUSE OF ACTION**  
                                  **(Breach of Warranty)**

11           60. Plaintiff repeats and realleges the allegations contained in Paragraphs 1 through  
12 59 above as if fully set forth herein.

13           61. Through the design, testing, manufacture, assembly, marketing and sale of the  
14 subject doors, implied warranties of merchantability and fitness for use arose by operation of the  
15 Nevada common law.

16           62. The subject doors and its component parts were neither merchantable nor fit for  
17 their intended use; and, on the contrary, were defective and unreasonably dangerous due to the  
18 breach by Defendants of the implied warranties of merchantability and fitness for use for the  
19 reasons described above.

20           63. The aforesaid breaches of implied warranty were causes in fact and proximate  
21 causes of the damages sustained by Plaintiff.

22           64. As a direct and proximate result of the conduct of the Defendants described  
23 hereinabove, Plaintiff has sustained damages in excess of \$15,000.00.

24           65. As a result of Defendants' conduct, as set forth herein, Plaintiff has been required  
25 to retain the services of an attorney, and, as direct, natural, and foreseeable consequence thereof,  
26 has been damaged thereby, and is entitled to reasonable attorneys' fees and costs.

1 WHEREFORE, Plaintiff requests that this Court enter judgment against Defendants as  
2 follows:

- 3 1. General damages in an amount in excess of \$15,000.00;
- 4 2. Special damages in an amount in excess of \$15,000.00;
- 5 3. Costs of suit and attorneys' fees;
- 6 4. For judgment for interest; and
- 7 5. For such other and further relief as this Court deems just and proper.

8  
9 Dated this 5 date of April, 2022

10  
11  
12 By: 

13 David A. Tanner, Esq.  
14 Nevada Bar No. 8282  
15 Reza R. Ayazi, Esq.  
16 Nevada Bar No. 15495  
17 **TANNER LAW FIRM**  
18 7895 W. Sunset Road, Suite 115  
19 Las Vegas, NV 89113  
20 Telephone (702) 987-8888  
21 Facsimile (702) 410-8070  
22 [david@tannerlawfirm.com](mailto:david@tannerlawfirm.com)  
23 [reza@tannerlawfirm.com](mailto:reza@tannerlawfirm.com)  
24 *Attorneys for Plaintiff*  
25  
26  
27  
28

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4/5/2022 3:58 PMElectronically Filed  
4/18/2022 12:17 PM  
Steven D. Grierson  
CLERK OF THE COURT1 **SUMM**3 CASE NO: A-22-850753-C  
4 Department 285 **DISTRICT COURT**6 **CLARK COUNTY, NEVADA**

7 QUINTNEY MARTIN, an individual,

8 Plaintiff,

9 vs.

10 SMITH'S FOOD & DRUG CENTERS, INC.  
11 d/b/a SMITH'S FOOD AND DRUG, a foreign  
12 corporation; DOES I through X; and ROE  
13 ENTITIES I through X,

14 Defendants.

CASE NO.

DEPT. NO.

**SUMMONS**15 **NOTICE! YOU HAVE BEEN SUED. THE COURT MAY DECIDE AGAINST**  
16 **YOU WITHOUT YOUR BEING HEARD UNLESS YOU RESPOND WITHIN 20 DAYS.**  
17 **READ THE INFORMATION BELOW.**18 **SMITH'S FOOD & DRUG CENTERS, INC. d/b/a SMITH'S FOOD AND DRUG**19 **TO THE DEFENDANT: A civil Complaint has been filed by the plaintiff against you for**  
20 **the relief set forth in the Complaint.**21 1. If you intend to defend this lawsuit, within 20 days after this Summons is served on  
22 you exclusive of the day of service, you must do the following:23 a. File with the Clerk of this Court, whose address is shown below, a formal written  
24 response to the Complaint in accordance with the rules of the Court.25 b. Serve a copy of your response upon the attorney whose name and address is  
26 shown below.

2. Unless you respond, your default will be entered upon application of the plaintiff and this Court may enter a judgment against you for the relief demanded in the Complaint, which could result in the taking of money or property or other relief requested in the Complaint.

3. If you intend to seek the advice of an attorney in this matter, you should do so promptly so that your response may be filed on time.

Issued at the direction of:

STEVEN D. GRIERSON, CLERK OF  
COURT

4/6/2022

By: Mary Anderson  
Deputy Clerk Mary Anderson Date  
County Courthouse  
200 Lewis Avenue  
Las Vegas, Nevada 89155

DAVID A. TANNER, ESQ.  
Nevada Bar No. 8282  
TANNER LAW FIRM  
7895 W. Sunset Road, Suite 115  
Las Vegas, NV 89113  
david@tannerlawfirm.com  
Phone (702) 987-8888  
Facsimile (702) 410-8070

STATE OF NEVADA )

ss.

## AFFIDAVIT OF SERVICE

COUNTY OF CLARK )

Jennifer Nicole Hernandez, being duly sworn says: That at all times herein affiant was and is a citizen of the United States, over 18 years of age, not a party to or interested in the proceeding in which this affidavit is made. That affiant received 1 copy(ies) of the Summons and Complaint on the 7<sup>th</sup> day of April, 2022 and served the same on the 14<sup>th</sup> day of April, 2022 by:

(Affiant must complete the appropriate paragraph)

1. Delivering and leaving a copy with the defendant \_\_\_\_\_ at \_\_\_\_\_

2. Serve the defendant \_\_\_\_\_ by personally delivering and leaving a copy with \_\_\_\_\_, as person of suitable age and discretion residing at the defendant's usual place of abode located at \_\_\_\_\_ (Confirmed with \_\_\_\_\_ Defendant lives at stated address.)

(Use paragraph 3 for serve upon agent, completing A or B)

3. Serving the defendant Smith's Food & Drug Centers, Inc. d/b/a Smith's Food and Drug, a foreign corporation by personally delivering and leaving a copy at 112 N. Curry St., Carson City, NV 89703 @ 9:24 A.M.

a. With \_\_\_\_\_ as \_\_\_\_\_ an agent lawfully designated by statute to accept service of process;

b. With Corporation Service Company with Kris Osborne (Clerk for CSC), pursuant to NRS 14.020 as a person of suitable age and discretion at the above address, which address is the address of the resident agent as shown on the current certificate of designation filed with the Secretary of State.

4. Personally depositing a copy in a mailbox of the United States Post Office, enclosed in a sealed envelope postage prepaid (check appropriate method):

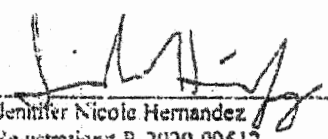
\_\_\_\_\_ ordinary mail  
 \_\_\_\_\_ certified mail, return receipt requested  
 \_\_\_\_\_ registered mail, return receipt requested

addressed to the defendant \_\_\_\_\_ at the defendant's last known address which is \_\_\_\_\_

I declare under penalty of perjury under the law of the State of Nevada that the forgoing is true and correct.

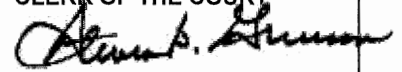
Execute on: 04/15/2022

No notary is required per NRS 53.045

  
 Jennifer Nicole Hernandez  
 Registration# R-2020-09512  
 KC Investigations, LLC  
 284 E. Lake Mead Pkwy Ste. C-310  
 Henderson, NV 89015  
 License# 2086



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5/4/2022 1:22 PM  
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1 ANSC  
JERRY S. BUSBY  
2 Nevada Bar #001107  
COOPER LEVENSON, P.A.  
3 3016 West Charleston Boulevard - #195  
Las Vegas, Nevada 89102  
4 (702) 366-1125  
FAX: (702) 366-1857  
5 [jbusby@cooperlevenson.com](mailto:jbusby@cooperlevenson.com)  
Attorneys for Defendant  
6 SMITH'S FOOD & DRUG CENTERS, INC.

7 **DISTRICT COURT**

8 **CLARK COUNTY, NEVADA**

9 QUINTNEY MARTIN, an individual,  
10 Plaintiff,

11 vs.

12 SMITH'S FOOD & DRUG CENTERS, INC.  
d/b/a SMITH'S FOOD AND DRUG, a foreign  
13 corporation; DOES I through X; and ROE  
ENTITIES I through X,  
14 Defendants.

CASE NO.: A-22-850753-C  
DEPT NO.: XXVIII

**DEFENDANT SMITH'S FOOD & DRUG  
CENTERS, INC.'S ANSWER TO  
PLAINTIFF'S COMPLAINT**

15  
16 COMES NOW, Defendant, SMITH'S FOOD & DRUG CENTERS, INC., improperly designated  
17 as SMITH'S FOOD & DRUG CENTERS, INC. d/b/a SMITH'S FOOD AND DRUG, by and through its  
18 attorney of record, JERRY S. BUSBY, ESQ., of the law firm COOPER LEVENSON, P.A., and hereby  
19 answers Plaintiff's Complaint on file herein as follows:

20 **I.**

21 Paragraph 1 of Plaintiff's Complaint states a legal conclusion which is the sole province of the  
22 Court to determine. This answering Defendant therefore denies said Paragraph.

23 **II.**

24 This answering Defendant states that it does not have sufficient knowledge or information  
25 upon which to base a belief as to the truth of the allegations contained in Paragraphs 2, 6, 7, 8, 10,  
26 11, 14, 15, 16, 19, 20 and 21 of Plaintiff's Complaint and upon said ground, denies each and every  
27 allegation contained therein.

28 ///

1 III.

2 In response to Paragraph 3 of Plaintiff's Complaint, this answering Defendant admits that it  
3 is and was a foreign corporation and was licensed to and was conducting business in Clark County,  
4 Nevada. This answering Defendant denies any remaining allegations contained in said Paragraph.

5 IV.

6 In response to Paragraph 4 of Plaintiff's Complaint, this answering Defendant admits that it  
7 owned, operated, maintained, and managed a store located in Clark County, Nevada. This  
8 answering Defendant denies any remaining allegations contained in said Paragraph.

9 V.

10 In response to Paragraph 5 of Plaintiff's Complaint, this answering Defendant admits that it  
11 owned and operated a SMITH'S store located at 5564 Camino Al Norte, North Las Vegas, NV  
12 89031. This answering Defendant denies any remaining allegations contained in said Paragraph.

13 VI.

14 This answering Defendant denies each and every allegation contained in Paragraphs 9, 13, 17  
15 and 22 of Plaintiff's Complaint.

16 VII.

17 In response to Paragraph 12 of Plaintiff's Complaint, this answering Defendant admits that it  
18 owned, managed and controlled the store in question. This answering Defendant denies any  
19 remaining allegations contained in said Paragraph.

20 VIII.

21 This answering Defendant admits the allegations contained in Paragraph 18 of Plaintiff's  
22 Complaint.

23 IX.

24 This answering Defendant, in response to Paragraph 23 of that portion of Plaintiff's Complaint  
25 entitled "**FIRST CAUSE OF ACTION (Negligence)**", incorporates herein by reference each and every  
26 answer previously alleged to the Paragraphs which the Plaintiff has realleged by incorporation.

27 X.

28 Paragraph 24 of that portion of Plaintiff's Complaint entitled "**FIRST CAUSE OF ACTION**

1 (Negligence)” states a legal conclusion which is the sole province of the Court to determine. This  
2 answering Defendant therefore denies said Paragraph.

3 **XI.**

4 This answering Defendant denies each and every allegation contained in Paragraphs 25, 26  
5 and 27 of that portion of Plaintiff’s Complaint entitled “**FIRST CAUSE OF ACTION**  
6 (Negligence)”.

7 **XII.**

8 This answering Defendant, in response to Paragraph 28 of that portion of Plaintiff’s Complaint  
9 entitled “**SECOND CAUSE OF ACTION (Negligence / Res Ipsa Loquitur)**”, incorporates herein by  
10 reference each and every answer previously alleged to the Paragraphs which the Plaintiff has realleged  
11 by incorporation.

12 **XIII.**

13 Paragraphs 29 and 33 of that portion of Plaintiff’s Complaint entitled “**SECOND CAUSE OF**  
14 **ACTION (Negligence / Res Ipsa Loquitur)**” state a legal conclusion which is the sole province of the  
15 Court to determine. This answering Defendant therefore denies said Paragraphs.

16 **XIV.**

17 This answering Defendant states that it does not have sufficient knowledge or information  
18 upon which to base a belief as to the truth of the allegations contained in Paragraphs 30 and 31 of  
19 that portion of Plaintiff’s Complaint entitled “**SECOND CAUSE OF ACTION (Negligence / Res**  
20 **Ipsa Loquitur)**” and upon said ground, denies each and every allegation contained therein.

21 **XV.**

22 This answering Defendant denies each and every allegation contained in Paragraphs 32, 34,  
23 35 and 36 of that portion of Plaintiff’s Complaint entitled “**SECOND CAUSE OF ACTION**  
24 **(Negligence / Res Ipsa Loquitur)**”.

25 **XVI.**

26 This answering Defendant, in response to Paragraph 37 of that portion of Plaintiff’s Complaint  
27 entitled “**THIRD CAUSE OF ACTION (Product Liability against Smith’s and Doe and Roe**  
28 **Defendants)**”, incorporates herein by reference each and every answer previously alleged to the

1 Paragraphs which the Plaintiff has realleged by incorporation.

2 **XVII.**

3 Paragraph 38 of that portion of Plaintiff's Complaint entitled "**THIRD CAUSE OF ACTION**  
4 **(Product Liability against Smith's and Doe and Roe Defendants)**" states a legal conclusion which is  
5 the sole province of the Court to determine. This answering Defendant therefore denies said Paragraph.

6 **XVIII.**

7 This answering Defendant denies each and every allegation contained in Paragraphs 39, 42,  
8 44 and 45 of that portion of Plaintiff's Complaint entitled "**THIRD CAUSE OF ACTION** (Product  
9 **Liability against Smith's and Doe and Roe Defendants)**".

10 **XIX.**

11 This answering Defendant states that it does not have sufficient knowledge or information  
12 upon which to base a belief as to the truth of the allegations contained in Paragraphs 40, 41 and 43 of  
13 that portion of Plaintiff's Complaint entitled "**THIRD CAUSE OF ACTION** (Product Liability  
14 **against Smith's and Doe and Roe Defendants)**" and upon said ground, denies each and every  
15 allegation contained therein.

16 **XX.**

17 This answering Defendant, in response to Paragraph 46 of that portion of Plaintiff's Complaint  
18 entitled "**FOURTH CAUSE OF ACTION** (Strict Product Liability)", incorporates herein by  
19 reference each and every answer previously alleged to the Paragraphs which the Plaintiff has realleged  
20 by incorporation.

21 **XXI.**

22 Paragraphs 47, 48 and 49 of that portion of Plaintiff's Complaint entitled "**FOURTH CAUSE**  
23 **OF ACTION** (Strict Product Liability)" state a legal conclusion which is the sole province of the  
24 Court to determine. This answering Defendant therefore denies said Paragraphs.

25 **XXII.**

26 This answering Defendant denies each and every allegation contained in Paragraphs 50, 51,  
27 52, 53 and 54 of that portion of Plaintiff's Complaint entitled "**FOURTH CAUSE OF ACTION**  
28 **(Strict Product Liability)**".



1 XXIII.

2 This answering Defendant, in response to Paragraph 55 of that portion of Plaintiff's Complaint  
3 entitled "**FIFTH CAUSE OF ACTION (Negligent Failure to Inspect and Warn)**", incorporates  
4 herein by reference each and every answer previously alleged to the Paragraphs which the Plaintiff has  
5 realleged by incorporation.

6 XXIV.

7 This answering Defendant denies each and every allegation contained in Paragraphs 56, 57,  
8 58 and 59 of that portion of Plaintiff's Complaint entitled "**FIFTH CAUSE OF ACTION**  
9 **(Negligent Failure to Inspect and Warn)**".

10 XXV.

11 This answering Defendant, in response to Paragraph 60 of that portion of Plaintiff's Complaint  
12 entitled "**SIXTH CAUSE OF ACTION (Breach of Warranty)**", incorporates herein by reference each  
13 and every answer previously alleged to the Paragraphs which the Plaintiff has realleged by  
14 incorporation.

15 XXVI.

16 Paragraphs 61 and 62 of that portion of Plaintiff's Complaint entitled "**SIXTH CAUSE OF**  
17 **ACTION (Breach of Warranty)**" state a legal conclusion which is the sole province of the Court to  
18 determine. This answering Defendant therefore denies said Paragraphs.

19 XXVII.

20 This answering Defendant denies each and every allegation contained in Paragraphs 63, 64  
21 and 65 of that portion of Plaintiff's Complaint entitled "**SIXTH CAUSE OF ACTION (Breach of**  
22 **Warranty)**".

23 **AFFIRMATIVE DEFENSES**

24 **FIRST AFFIRMATIVE DEFENSE**

25 Plaintiff did not use reasonable diligence to care for her injuries, thereby aggravating said injuries  
26 as a result. Therefore, Plaintiff's claims against this answering Defendant should be denied, or any  
27 recovery reduced in proportion to said negligence of Plaintiff.

28 ///



**SECOND AFFIRMATIVE DEFENSE**

At the time and place alleged in Plaintiff's Complaint, and for a period of time prior thereto, Plaintiff did not exercise ordinary care, caution, or prudence for the protection of her own safety, and injuries and damages complained of by Plaintiff in the Complaint, if any, were directly and proximately caused or contributed to by the fault, failure to act, carelessness, and negligence of Plaintiff, and therefore Plaintiff's claims against this answering Defendant should be denied, or any recovery reduced in proportion to said negligence of Plaintiff.

WHEREFORE, this answering Defendant prays that Plaintiff take nothing by virtue of her Complaint on file herein; for costs and disbursements incurred in this action; and for such other and further relief as to the Court may deem proper.

Dated this 4th day of May, 2022.

COOPER LEVENSON, P.A.

By /s/ Jerry S. Busby  
Jerry S. Busby  
Nevada Bar No. 001107  
3016 West Charleston Boulevard - #195  
Las Vegas, Nevada 89102  
Attorneys for Defendant  
SMITH'S FOOD & DRUG CENTERS, INC.

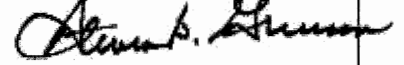
**CERTIFICATE OF SERVICE**

Pursuant to NRCP 5(b), I certify that I am an employee of COOPER LEVENSON, P.A. and that on this 4th day of May, 2022, I did cause a true copy of the foregoing **DEFENDANT SMITH'S FOOD & DRUG CENTERS, INC.'S ANSWER TO PLAINTIFF'S COMPLAINT** to be served upon each of the parties listed below via electronic service through the Eighth Judicial District Court's Odyssey E-File and Serve System:

David A. Tanner, Esq.  
TANNER LAW FIRM  
7895 West Sunset Road – Suite 115  
Las Vegas, NV 89113  
Attorneys for Plaintiff

By /s/ Theresa H. Rutkowski  
An Employee of  
COOPER LEVENSON, P.A.

Electronically Filed  
5/16/2022 11:18 AM  
Steven D. Grierson  
CLERK OF THE COURT



**CHLG**  
JERRY S. BUSBY  
Nevada Bar #001107  
COOPER LEVENSON, P.A.  
3016 West Charleston Boulevard - #195  
Las Vegas, Nevada 89102  
(702) 366-1125  
FAX: (702) 366-1857  
[ibusby@cooperlevenson.com](mailto:ibusby@cooperlevenson.com)  
Attorneys for Defendant  
SMITH'S FOOD & DRUG CENTERS, INC.

**DISTRICT COURT**

**CLARK COUNTY, NEVADA**

QUINTNEY MARTIN, an individual,  
  
Plaintiff,

vs.

SMITH'S FOOD & DRUG CENTERS, INC.  
d/b/a SMITH'S FOOD AND DRUG, a foreign  
corporation; DOES I through X; and ROE  
ENTITIES I through X,

Defendants.

CASE NO.: A-22-850753-C  
DEPT NO.: XXVIII

**PEREMPTORY CHALLENGE OF  
JUDGE**

PLEASE TAKE NOTICE that Defendant, SMITH'S FOOD & DRUG CENTERS, INC., desires to exercise its right to a peremptory challenge of the Honorable Ronald J. Israel in the above referenced matter pursuant to Nevada Supreme Court Rule 48.1.

Dated this 16th day of May, 2022.

COOPER LEVENSON, P.A.

By /s/ Jerry S. Busby

Jerry S. Busby  
Nevada Bar No. 001107  
3016 West Charleston Boulevard - #195  
Las Vegas, Nevada 89102  
Attorneys for Defendant  
SMITH'S FOOD & DRUG CENTERS, INC.

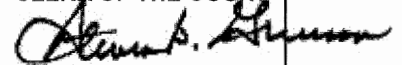
**CERTIFICATE OF SERVICE**

Pursuant to NRCP 5(b), I certify that I am an employee of COOPER LEVENSON, P.A. and that on this 16th day of May, 2022, I did cause a true copy of the foregoing **PEREMPTORY CHALLENGE OF JUDGE** to be served upon each of the parties listed below via electronic service through the Eighth Judicial District Court's Odyssey E-File and Serve System:

David A. Tanner, Esq.  
TANNER LAW FIRM  
7895 West Sunset Road – Suite 115  
Las Vegas, NV 89113  
Attorneys for Plaintiff

By /s/ Theresa H. Rutkowski  
An Employee of  
COOPER LEVENSON, P.A.

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5/16/2022 11:53 AM  
Steven D. Grierson  
CLERK OF THE COURT



**DISTRICT COURT  
CLARK COUNTY, NEVADA**

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QUINTNEY MARTIN, PLAINTIFF(S)

VS.

SMITH'S FOOD & DRUG CENTERS, INC,

DEFENDANT(S)

Case No.: A-22-850753-C

DEPARTMENT 4

**NOTICE OF DEPARTMENT REASSIGNMENT**

NOTICE IS HEREBY GIVEN that the above-entitled action has been randomly  
reassigned to Judge Nadia Krall.

☒ This reassignment follows the filing of a Peremptory Challenge of Judge Ronald J. Israel.

ANY TRIAL DATE AND ASSOCIATED TRIAL HEARINGS STAND BUT MAY BE  
RESET BY THE NEW DEPARTMENT. PLEASE INCLUDE THE NEW DEPARTMENT  
NUMBER ON ALL FUTURE FILINGS.

STEVEN D. GRIERSON, CEO/Clerk of the Court

By: /s/ Salevao Asifoa

S.L. Asifoa, Deputy Clerk of the Court

**CERTIFICATE OF SERVICE**

I hereby certify that this 16th day of May, 2022

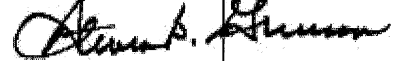
☒ The foregoing Notice of Department Reassignment was electronically served to all  
registered parties for case number A-22-850753-C.

/s/ Salevao Asifoa

S.L. Asifoa, Deputy Clerk of the Court



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5/18/2022 1:43 PM  
Steven D. Grierson  
CLERK OF THE COURT



**PET**

DAVID A. TANNER, Esq.  
Nevada Bar No. 8282  
REZA R. AYAZI, Esq.  
Nevada Bar No. 15495  
**TANNER LAW FIRM**  
7895 W. Sunset Road, Suite 115  
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[reza@tannerlawfirm.com](mailto:reza@tannerlawfirm.com)  
*Attorneys for Plaintiff*

**DISTRICT COURT**

**CLARK COUNTY, NEVADA**

QUINTNEY MARTIN, an individual,

Plaintiff,

vs.

SMITH'S FOOD & DRUG CENTERS, INC.  
d/b/a SMITH'S FOOD AND DRUG, a foreign  
corporation; DOES I through X; and ROE  
ENTITIES I through X,

Defendants.

CASE NO.: A-22-850753-C

DEPT. NO.: IV

**PETITION FOR EXEMPTION FROM  
ARBITRATION**

**PETITION FOR EXEMPTION FROM ARBITRATION**

Plaintiff, QUINTNEY MARTIN, hereby requests the above-entitled matter be exempted from arbitration pursuant to Nevada Arbitration Rules 3 and 5, because this case involves an amount in issue in excess of \$50,000.00, exclusive of interest and costs.

A summary of the facts which support the contention for exemption are as follows:

1 On or about March 8, 2021, Mr. Martin was at Smith's located at 5564 Camino Al Norte,  
2 North Las Vegas, NV 89031. While walking through the entrance door and entering into Smith's,  
3 the doors suddenly closed onto our client, hitting Plaintiff and thus causing injuries to Plaintiff.

4 Following Plaintiff's March 8, 2021 incident, Mr. Martin went to University Medical  
5 Center for dizziness, nausea, neck pain, and headaches. On March 13, 2021, Mr. Martin went to  
6 Extremities Surgical Institute for neck pain and headaches. He was recommended for a cervical  
7 MRI and referred to a neurologist. On March 18, 2021, Mr. Martin went to Neurology Institute  
8 of Nevada for headaches, dizziness, neck pain, and low back pain. On March 27, 2021, Mr. Martin  
9 went to Extremities Surgical Institute for a platelet rich plasma injection. On April 9, 2021, Mr.  
10 Martin went to Neurology Institute of Nevada and received EMG tests. On April 9, 2021, Mr.  
11 Martin went to Spine and Orthopedic Intervention for neck and back pain, and headaches. Mr.  
12 Martin was recommended to continue chiropractic treatment and a tens unit. On April 30, 2021,  
13 Mr. Martin received a bilateral diagnostic/therapeutic third occipital nerve block injection. On  
14 May 7, 2021, Mr. Martin went to Spine and Orthopedic Interventionalists for a follow up. Mr.  
15 Martin was recommended for a cervical injection. On May 8, 2021, Mr. Martin went to  
16 Extremities Surgical Institute for neck pain. Mr. Martin was recommended for pain management.  
17 On May 14, 2021, Mr. Martin went to Surgery Center of Nevada and received a C7-T1  
18 intralaminar epidural injection. On May 21, 2021, Mr. Martin went to Spine and Orthopedic  
19 Interventionalists for follow up. Mr. Martin was recommended for a spine surgeon and lumbar  
20 injections. On June 4, 2021, Mr. Martin went to Surgery Center of Nevada and received a bilateral  
21 L5-S1 diagnostic/therapeutic facet blocks. On June 11, 2021, Mr. Martin went to Spine and  
22 Orthopedic Intervention for low back pain and neck pain. Mr. Martin was recommended for a  
23 second injection. On June 18, 2021, Mr. Martin went to Surgery Center of Nevada for bilateral  
24 L5-S1 diagnostic/therapeutic facet blocks. On September 17, 2021, Mr. Martin went to OrthoCor  
25 Medical for low back pain. He was recommended for a 3-month cervical OrthoCor medical device  
26 and a 3-month lumbar/thoracic OrthoCor medical device. On September 30, 2021, Mr. Martin  
27 went to Injury Rehab Associates for lumbar pain, neck pain, and physical therapy evaluation. Mr.  
28 Martin was recommended for physical therapy two-three times a week for 8-12 weeks. On

October 23, 2021, Mr. Martin went to Extremities Surgical Institute for cervical pain. He was recommended for another cervical injection. Mr. Martin does not have any medical procedures currently scheduled, but he will follow up with his doctors for any further treatment.

Due to Mr. Martin's significant injuries, to date he has incurred the following medical expenses:

1.	Extremities Surgical Institute	\$49,900.00
2.	Injury Rehab Associates	\$10,988.50
3.	Las Vegas Pharmacy	\$393.62
4.	Neurology Institute of Nevada	\$11,550.00
5.	OrthoCor Medical	\$38,550.00
6.	Quick Care Medical Devices, LLC	\$73,990.00
7.	Spine and Orthopedic Interventionalists	\$24,560.00
8.	University Medical Center	\$10,517.74

**TOTAL: \$220,449.86**

Mr. Martin will seek compensation for his past and future pain and suffering, loss of household services, and loss of enjoyment of life.

Based upon the foregoing, Plaintiff requests that this matter be exempted from the Arbitration Program.

I hereby certify pursuant to NRCP 11 this case to be within the exemption stated above and am aware of the sanctions which may be imposed against any attorney or party who, without good cause or justification, attempts to remove a case from the Arbitration Program.

Dated this 18 date of May, 2022.

By: 

DAVID A. TANNER, Esq.  
Nevada Bar No. 8282  
**TANNER LAW FIRM**  
7895 West Sunset Road, Suite 115  
Las Vegas, NV 89113  
Telephone (702) 987-8888  
*Attorney for Plaintiff*

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that I am an employee of the law firm of TANNER LAW FIRM and that on the 18 day of May, 2022, I served the above and foregoing **PETITION FOR EXEMPTION FROM ARBITRATION** by Electronic Service to the following:

JERRY S. BUSBY  
Nevada Bar #001107  
**COOPER LEVENSON, P.A.**  
3016 West Charleston Boulevard - #195  
Las Vegas, Nevada 89102  
(702) 366-1125  
FAX: (702) 366-1857  
jbusby@cooperlevenson.com  
*Attorneys for Defendant*  
**SMITH'S FOOD & DRUG CENTERS, INC.**

  
An Employee with Tanner Law Firm